

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Laura BORSI et al.

Examiner: BRISTOL, LYNN ANNE

Serial No.: 10/507,178

Group Art Unit: 1643

Filed: MAY 28, 2002

Confirmation No.: 4401

Title: SELECTIVE TARGETING OF TUMOR VASCULATURE USING ANTIBODY MOLECULES

REQUEST FOR RECONSIDERATION OF PETITION DECISION

Office of Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

It is respectfully requested that the Commissioner, through the honorable group Director, overturn the petition decision mailed March 4, 2010, which dismissed Applicants' renewed petition for revival of the above-identified application without prejudice or disclaimer.

STATEMENT OF FACTS

Page 2 of the Petition Decision mailed March 4, 2010 expressly states that:

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (2)-(4) above.

The Petition Decision further alleges that Applicant has not provided the required reply (i.e., proper sequence listing in computer readable format has not been supplied as set forth in the decision mailed 28 July 2009). This is incorrect. A compliant sequence listing was submitted on September 21, 2007, immediately after receipt of the initial holding of

Serial No.: 10/507,178

-1-

Ellis-0001

abandonment (mailed: August 2, 2007). Moreover, insofar as the reply was submitted within two months of the mailing date of the initial Office Action, the petition requesting withdrawal of the holding of abandonment was timely. See *infra* and Exhibits A and B.

RELIEF REQUESTED

It is respectfully requested that:

1. The petition decision mailed March 4, 2010 be overturned; and
2. Applicants' petition for unintentional abandonment be granted.

RESPONSE

Sequence listings submitted

Two versions of sequence listings and the scanned PDF copy thereof are currently downloadable via USPTO's Patent Application Information Retrieval (PAIR) system (under "Supplemental Content"). See Exhibit A. It should be noted that "**version 1, sub-version 1**" containing 15 biological sequences is the most recent version (submitted on September 21, 2007) and replaces "**version 2**" containing 13 sequences (submitted on July 11, 2005). It appears at the outset that the numbering scheme used by the USPTO to identify these listings is counterintuitive (i.e., the latter-filed version is termed "version 1"). It is thus of no surprise that the Computer Readable Form (CRF) analysis of sequence listing(s) mistakenly *re-examines* the allegedly defective sequence listing submitted on July 11, 2005 (i.e., version 2). See the results of the analysis performed by "Reviewer: markspencer" on October 16, 2007. The sequence listing filed on September 21, 2007 (version 1, sub-version 1) corrects this alleged defect. More specifically, Section <120> of the revised listing (version 1, sub-version 1) does not contain the header "Title of the Invention" that is present in version 2. Additionally, as per the Reviewer's suggestion, the term "artificial" (for characterizing the linker sequences of SEQ ID NOs: 7-13) was amended to recite "synthetic" in the revised listing. A copy of the revised listing is enclosed herewith in Exhibit B. Review thereof is respectfully requested.

Although not required to do so because a compliant sequence listing was previously submitted and entered, enclosed herewith is a *copy* of the sequence listing (version 1, sub-version 1), as is available for download via USPTO PAIR. Applicants submit that the enclosed listing, like the original submission, complies with the requirements set forth under §1.821-1.825. Reconsideration of the holding of abandonment is respectfully requested.

For the sake of completeness, the remarks submitted with Applicants' renewed

petition of September 11, 2009 is incorporated herein in its entirety.

In view of the foregoing arguments and the exhibits enclosed herewith, Applicants submit that there is ample basis to overturn the petition decision. Favorable action is earnestly solicited.

Calculation of PTA

Insofar as the holding of abandonment was made in error, it is submitted that any loss of patent term resulting from this PTO-related delay should be afforded back to Applicants in accordance with 35 USC §154.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any additional fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

/Sagun KC/

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For Applicant(s)

/Anthony J. Zelano/

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Attorney for Applicant(s)

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Attorney Docket No.: ELLIS-0001

Date: May 19, 2010

EXHIBIT A



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10/507,178

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Supplemental Content - Sequences

Use this page to view or retrieve a specific version of the Sequence Listing submitted for this application.

Version	Sub-Version	Number of Sequences	Sequence Name	Item Size	Item ID
1	0	15	US10507178	5.304	09323b67802d0
1	1	15	US10507178	5.277	09323b67802d0
2	0	13	US10507178	3.317	09323b67802e5
2	1	13	US10507178	3.317	09323b67802e5

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This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download: Check the desired document(s) and click PDF.

Available Documents

Mail Room	Date	Document Code	Document Description	Document Category	Page Count
03-04-2010		OA.EMAIL	Email Notification	PROSECUTION	
03-01-2010		PET.DEC.OIPE	Petition decision routed to the OIPE to act on the decision or continue prosecution.	PROSECUTION	
09-11-2009		PET.OP	Petition for review by the Office of Petitions.	PROSECUTION	
09-11-2009		AF/D	Rule 130, 131 or 132 Affidavits	PROSECUTION	
09-11-2009		AF/D	Rule 130, 131 or 132 Affidavits	PROSECUTION	
09-11-2009		N417	EFS Acknowledgment Receipt	PROSECUTION	
07-30-2009		OA.EMAIL	Email Notification	PROSECUTION	
07-28-2009		PET.DEC.OIPE	Petition decision routed to the OIPE to act on the decision or continue prosecution.	PROSECUTION	
01-22-2009		TRAN.LET	Transmittal Letter	PROSECUTION	
01-22-2009		IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	
01-22-2009		NPL	NPL Documents	PROSECUTION	
01-22-2009		NPL	NPL Documents	PROSECUTION	
01-22-2009		NPL	NPL Documents	PROSECUTION	
01-22-2009		NPL	NPL Documents	PROSECUTION	
01-22-2009		NPL	NPL Documents	PROSECUTION	
01-22-2009		N417	EFS Acknowledgment Receipt	PROSECUTION	
02-06-2008		TRAN.LET	Transmittal Letter	PROSECUTION	
02-06-2008		IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	
02-06-2008		N417	EFS Acknowledgment Receipt	PROSECUTION	
10-16-2007		CRFD	Computer Readable Form (CRF) for Sequence Listing - Defective	PROSECUTION	
09-21-2007		PET.STATUS	Petition for review/processing depending on status	PROSECUTION	
09-21-2007		A.NE	Amendment After Final	PROSECUTION	
09-21-2007		SPEC	Specification	PROSECUTION	
09-21-2007		REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	
09-21-2007		AF/D	Rule 130, 131 or 132 Affidavits	PROSECUTION	
09-21-2007		CRFS	CRF Statement Paper and CRF are the same	PROSECUTION	
* 09-21-2007		SEQLIST	Sequence Listing	PROSECUTION	
09-21-2007		ARTIFACT	Artifact sheet indicating an item has been filed which cannot be scanned	PROSECUTION	
09-21-2007		SEQ.TXT	Sequence Listing (Text File)	PROSECUTION	
08-02-2007		EABN	Letter Express Abandonment of the application	PROSECUTION	
02-12-2007		PEFN	Pre-Exam Formalities Notice	PROSECUTION	
02-12-2007		CTMS	Miscellaneous Action with SSP	PROSECUTION	
09-11-2006		SEQREQ	Sequence Problem Attachment from Examiner	PROSECUTION	
10-28-2005		M903	Notice of DO/EO Acceptance Mailed	PROSECUTION	
* 07-11-2005		CRFL	CRF Sequence Listing Filed	PROSECUTION	
05-31-2005		LET.	Miscellaneous Incoming Letter	PROSECUTION	
05-31-2005		OATH	Oath or Declaration filed	PROSECUTION	
05-31-2005		BIB	Bibliographic Data Sheet	PROSECUTION	
05-31-2005		SEQLIST	Sequence Listing	PROSECUTION	
03-29-2005		M905	Notice of DO/EO Missing Requirements Mailed	PROSECUTION	
09-10-2004		TRNA	Transmittal of New Application	PROSECUTION	
09-10-2004		SPEC	Specification	PROSECUTION	
09-10-2004		CLM	Claims	PROSECUTION	
09-10-2004		ABST	Abstract	PROSECUTION	
09-10-2004		DRW	Drawings-only black and white line drawings	PROSECUTION	

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EXHIBIT B

SEQUENCE LISTING

<110> BORSI, LAURA
 CARNEMOLLA, BARBARA
 BALZA, ENRICA
 CASTELLANI, PATRIZIA
 ZARDI, LUCIANO
 FRIEBE, MATTHIAS
 HILGER, CHRISTOPH-STEPHAN

<120> ANTIBODIES DERIVED FROM ANTI ED-B L19 AND TARGETING
 TUMOR VASCULATURE

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<140> 10/507,178

<141> 2004-09-10

<150> PCT/IB03/01458

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